

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

P. Michael Melia et al.

Application No: 09/912,220

Filed: July 24, 2001

For: **CONTENT MANAGEMENT AND
TRANSFORMATION SYSTEM FOR
DIGITAL CONTENT**



Group Art Unit: 2183
Examiner: **Rhinehart, Mark**

Our File No.: 13002.1001

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PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102

Commissioner for Patents and Trademarks
Washington, D.C. 20231

Sir:

Applicant petitions the Commissioner of Patents and Trademarks to expedite the examination of the above-mentioned Application under 37 CFR § 1.102(d) for actual infringement. The fee required under 37 CFR § 1.17(i) for \$130.00 is included with this petition.

Applicant has provided a copy of each reference (Exhibits A-D) illustrating said infringing product that is deemed to most closely relate to the subject matter encompassed by said claims.

If the Examiner believes that there are any issues that can be resolved by a telephone conference, or that there are any informalities that can be corrected by an Examiner's amendment, please call Gregory S. Smith at (678) 579-7822.

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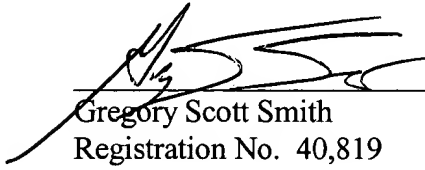
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13002.1001

PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102

Respectfully submitted,



Gregory Scott Smith
Registration No. 40,819

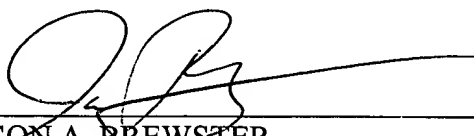
LAVA Group, Inc.
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AFFIDAVIT OF INFRINGEMENT

I, **JASON A. BREWSTER**, having a post office address of **977 Highland View Drive, Atlanta, Georgia 30306**, am a co-inventor of an invention entitled "**CONTENT MANAGEMENT AND TRANSFORMATION SYSTEM FOR DIGITAL CONTENT**" as described in the application for a United States patent filed with the U.S. Patent and Trademark Office filed on July 24, 2001 and assigned Application Number 09/912,220 claiming priority of a United States Provisional Application filed on June 29, 2001 and assigned Serial Number 60/302,035.

I submit, in my opinion, that there is an infringing product on the market that, after a rigid comparison of said product with the claims of the above-mentioned Application, some of said claims are unquestionably infringed. I have knowledge of the pertinent art and have made a careful and thorough search of the prior art in deriving this opinion.

I have provided a copy of references (Exhibits A-D) that illustrate the infringing product that is deemed to most closely relate to the subject matter encompassed by the claims.



JASON A. BREWSTER
3/26/2003

Date

Houston: We have a problem with Office

By [David Becker](#)

Staff Writer, CNET News.com

January 23, 2003, 3:30 PM PT

update Houston has begun to phase out Microsoft Office for its 13,000 city workers in favor of Web-based software from a local start-up.

The Texas city signed a five-year, \$9.5 million contract last year with Houston-based SimDesk Technologies to provide city workers and, eventually, up to 3 million city residents with the company's software and services.

SimDesk offers a package of more than two dozen applications covering basic PC tasks such as word processing, spreadsheets, calendars and e-mail. The applications include a subscription to SimDesk's Web-based services, which allow customers to store documents, messages and other data on a central server run by SimDesk. This data can be retrieved and manipulated from any device with a Web connection, including cell phones and handheld computers.

Ray Davis, SimDesk's founder and president, said the key to making it work is an extremely efficient protocol for transferring data to and from SimDesk's central server. The company has a single 32-processor Unisys server capable of handling 21 million users.

"It's not the typical client-server relationship," Davis said. "We use a patented, proprietary transfer protocol...that uses a very specific load-balancing technology we developed. Whether you're using a cell phone or the fastest Internet connection at the office, it reacts the same. You don't have to worry about bandwidth."

Such efficiency is the ticket to turning the hype surrounding Web services into reality, Davis said.

"Web services is a great idea; ubiquitous access to your data from any device is a great idea," he said. "But when you go and look at the costs and infrastructure involved--a school system can't afford the servers and software and routers involved in creating that type of environment. We've stripped away all dependencies that normally would be involved in handling Web services. We have no dependencies on Microsoft, Sun (Microsystems), Oracle or Linux."

Houston officials heard about SimDesk two years ago and began testing its software and services on public library PCs last year. Richard Lewis, chief information officer for the city, said response to the library trial was so good that when the city began looking for alternatives to Microsoft Office, SimDesk was a leading contender--in part, because Microsoft enacted last year potentially expensive new licensing plans.

"Microsoft respects the right of any customer to review software alternatives, but the discussion should go beyond price," a Microsoft representative said. "Office has a proven

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The resulting contract with the city of Houston calls for the installation of SimDesk on half of the 13,000 PCs used by its workers. Houston's Lewis said city workers have been using the software in four departments with a total of about 1,000 desktops. Workers switching to SimDesk will also get new hardware--a stripped down "Internet appliance" without PC frills such as local storage.

Lewis said that if the new software and hardware allow city workers to do their jobs without any sacrifice in productivity, the introduction of the project will be accelerated, promising significant savings in hardware, software and administration costs.

"I won't know for months whether this is going to really be a feasible alternative to Microsoft in the enterprise," he said. "If it is successful, we're only going to be buying Internet appliances for the next two years...The notion of trying to reduce your software license costs, your hardware costs, your support costs--those are all good, solid business goals, and we're obligated to pursue those where we can."

The third phase of Houston's SimDesk experiment allows any Houston resident with a library card--up to 3 million users--to install and use the application, all subsidized by the city as part of the contract with SimDesk.

Lewis said the goal is to ensure that every Houston resident has access to basic PC functions, whether they're using a public PC at the library, an old-hand-me-down laptop or a \$50 Internet appliance.

"That's really what's driving this--our mayor (Lee P. Brown) is going to be the first mayor on the planet to really bridge the digital divide in a major city," Lewis said. "It just makes sense to make sure all sectors of our community have access to these kind of productivity tools."

The city of Chicago recently agreed to a pilot program using SimDesk, and Davis said the company is negotiating with Los Angeles and the national government of Brazil.

Thick and thin

SimDesk applications will open and edit most common data formats, but they don't include all the bells and whistles of Office and other full-fledged applications. Davis said he expects that many clients will continue to provide Office or similar applications for some power users, while using SimDesk for average workers and to provide universal access.

"We are not trying to go toe-to-toe with Microsoft Office," he said. "SimDesk can work alongside Microsoft Office, but it can do a lot more. You can't access an Office document on your cell phone."

Microsoft has endured a number of high-profile defections from its products in recent months. Hewlett-Packard, Sony and other PC makers have ditched Microsoft Works, the lower-priced consumer version of Office, in favor of cheaper software packages from Corel and Sun.

Paul DeGroot, an analyst for research firm Directions on Microsoft, said such high-profile customer losses don't pose an immediate threat to Microsoft, but they signal changing attitudes that could hurt the software giant.

"It's not something Microsoft can be casual about or ignore," DeGroot said. "When a new product like this (SimDesk) gets a large reference account like this, it's very important. Customers need to know there's someone else that looked at the solution, adopted it and found a good basis for making the change."

SimDesk adds an interesting twist, DeGroot continued, by employing a "thin client" approach: Most of the heavy lifting is done by a central server, allowing the client software to run on relatively low-end devices.

"A very important thrust for Microsoft is to make the case for a fat client--for connectivity, for the enormous processing power available on the PC," DeGroot said. "They need to avoid the trend toward companies adopting a very server-centric, thin-client approach."

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SimDesk Unveils Revolutionary New Product

--*Virtual Desktop Software Helps Bridge the Digital Divide*-- Houston (August 20, 2001) - SimDesk™, a software development company, today unveiled a suite of web-based productivity applications. The revolutionary new product suite provides users e-mail, word processor, spreadsheet, file manager, calendar, remote printing, computer backup and contact manager applications through any web-enabled device.

"This simply anywhere desktop finally makes mobile-computing a reality," said Robert E. Knowling, Jr., SimDesk's Chairman and Chief Executive Officer. "SimDesk™ gives people anywhere-anytime access to a virtual desktop that offers a comprehensive alternative to other legacy software applications.

"Debuted today for the City of Houston by Mayor Lee P. Brown, Robert E. Knowling, Jr., and SimDesk™ Founder and Chief Technology Officer, Ray Davis, the SimDesk™ product suite will be made available to every Houstonian. Unveiled as SimHouston, the virtual desktop software provides Houstonians access to the global information highway from anywhere.

"The City of Houston is proud to be the first city in the country to provide a web-based virtual desktop to every city resident," said Mayor Brown. "With nearly two million Houstonians, SimDesk offers the best solution to help bridge the digital divide in Houston by providing residents, regardless of one's socio-economic situation, access to a revolutionary new technology not available anywhere else in the world."

The benefits SimDesk™ can offer city, state and federal government, school districts; large service providers; and phone companies is an opportunity to increase collaboration across organizations, as well as increase the loyalty of their user base. With SimDesk™, an organization can instantly place themselves at the forefront of the next wave of the Internet evolution with a suite of services that dramatically increases productivity.

Current web-based productivity applications represent a splintered offering in the market and most, if not all, are based on Application Service Provider (ASP) technology, which has some technical limitations in terms of latency and bandwidth requirements and the added burden of huge computing costs. SimDesk, however, has developed a proprietary technology that eliminates the limitations associated with an ASP model and enables users to create, manage, store, print and access their personal information from any device connected to the Internet.

"The SimDesk™ capabilities offer users a way to access their files and information from any computer, PDA, or cell phone equipped with an Internet connection," said Ray Davis, SimDesk's Founder and Chief Technology Officer. "We have been working on this

application meet the expectations of the software and computing industry. Effectively move the world to a network-based computing environment."

About SimDesk Technologies, Inc.

SimDesk Technologies, Inc., Inc., (SimDesk Technologies), a software development company, incorporated in 1999, has created technology that represents the most significant and pioneering Internet innovation in the last 20 years.

The essential component of the technology is an exclusive, first to market, proprietary web-enabled transport protocol. Its patented methodology is unrivaled and is the most groundbreaking and efficient way for applications to communicate data over the Internet. The Company, through its SimDesk™ and SimMedia™ software application suites, can economically and simply offer software-over-Internet solutions.

SimDesk Technologies is headquartered at 5450 Northwest Central, Suite 300; Houston, TX 77092. Telephone: 1.866.SIMDESK. Website: www.simdesk.com.

For more information, please contact:

Julie Gilbert
SimDesk Technologies, Inc.
w: 713.690.6016 ext. 247
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SimDesk Technologies, Inc. to Debut Revolutionary Software-over-Internet Solution

--SimMedia™ to be unveiled at Houston ITEC conference--

Houston (May 15, 2002) - Houston based SimDesk Technologies, Inc., Inc. (SimDesk Technologies), will unveil SimMedia™, the company's newest suite of revolutionary software applications, at the Houston ITEC conference, May 15 & 16 at the Reliant Center. The release of the technology represents some of the most pioneering software innovations in the last 20 years.

SimMedia™ includes first-of-its-kind applications for presentation graphics, instant messaging, video teleconferencing, and white boarding. For the first time ever, users are able to get all of these applications along with a full suite of office applications from one company. Moreover, each of these applications is accessible on any Internet-enabled device whether that is a cell phone, Palm device, personal or public computer, or Internet appliance.

"SimDesk Technologies software offers a break through in terms of the way people will use their computers at home, in the office, and on the road," said Robert E. Knowling, Jr., SimDesk Technologies Chairman and Chief Executive Officer. "Further, by licensing our software to cities nationwide we are making digital inclusion a reality by offering a solution that truly bridges the digital divide."

SimDesk™, SimDesk Technologies flagship product, includes applications for word processing, spreadsheets, calendar and contact management, email, file management with file and group sharing capabilities, backup utilities, and remote printing. Each of these applications are run over the Internet using patented transport protocols and load balancing techniques that enable a single server to support millions of simultaneous users.

As a server-based software solution, SimDesk Technologies products allow users to escape the boundaries of traditional computing where software and data are uniquely tied to a single computer. With SimDesk™, users can store all of their information on a secure server and then access that information from any web-enabled device.

The Houston ITEC conference was chosen as the place to debut the SimMedia™ software since the SimDesk™ suite of applications are currently being used by citizens at all Houston Public Library sites. This pilot program was originally launched in August 2001. Upon complete rollout of the applications, which is expected imminently, the City of Houston would effectively bridge the digital divide.

Demonstrations of SimMedia™ will be given in booth 214 located in the Government IT Solutions Center at the Houston ITEC conference. For more information on SimDesk™ or SimMedia™, please contact Julie Gilbert at 713.690.6016 ext. 247 or jgilbert@simdesk.com. For

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Welcome to the SimDesk Technologies, Inc. (SimDesk Technologies) Press Room

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Our flagship product, SimDesk™ is a rich suite of content applications available to users through any Web-enabled device. With the SimDesk™ applications, SimDesk Technologies is poised to be a major contributor in the evolution of the Internet. SimDesk™ applications will increase Internet productivity by creating an environment where files and data are accessed, stored, transferred, and printed to users from any Web-enabled device anywhere in the world.

Here at SimDesk Technologies, we have a truly robust bundle of services that will place our customers at the forefront of the next wave of the Internet revolution. Please see our recent press releases and articles for more information on our company and products. If you are interested in more information, please do not hesitate to contact us.

Press Releases:

- City, IAT Host SimDesk Briefing for East Asians.
 Delegation Sought Info on Bridging the Digital Divide.
- Gartner, Inc Posts Research Note Publicizing
 Software's Ability to Bridge Digital Divide.
- SimDesk Technologies Creates First World-Wide-Server™
 Capable of supporting more than 21 Million users on a Single
 ES7000 Server.
- SimDesk Technologies, Inc. signs \$9.5 Million
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- SimDesk Technologies, Inc. to Debut Revolutionary
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- Unisys and SimDesk Technologies (SimDesk) Help
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- SimDesk Unveils Revolutionary New Product.
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- Robert E. Knowling Joins SimDesk Technologies, Inc.
 - February 20, 2001

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SimDesk™, the premiere product at SimDesk Technologies, is a suite of web-enabled office productivity applications and was developed specifically to run on a variety of operating platforms including Windows, Macintosh, WebTV, Internet appliances, hand-held devices, and web-enabled cellular phones.

The SimDesk™ suite has five major benefits that set it apart from other industry standard office productivity suites: cost, security, ease of use, transportability, and speed.

Cost

The cost to deploy the SimDesk™ Desktop is nominal compared to other alternatives of companies providing this type of service. One big advantage is that there are no royalties to third party vendors (ASP model). In addition, the bandwidth required to provide these types of services in an ASP solution is minimal due to SimDesk's technology.

Security

In the same way vendors use SSL (Secure Socket Layer) technology to receive sensitive credit card and banking information, SimDesk™ is able to offer secure transmissions of data and other communications. The Internet is eager for this type of communication and SimDesk Technologies has filed patents to ensure that the company's methodology and software remain proprietary.

Ease of Use

SimDesk™ can be accessed and used with the user's Internet browser or as a stand-alone application. All applications are modeled after industry-standard office productivity applications, so users will be up and running without extensive training. Additionally, SimDesk™ technology allows users to take advantage of sophisticated networking without expensive networking equipment.

Transportability

Computers have evolved along a single line when it comes to transportability: size. From mainframes to PCs to laptops to PDAs, the trend has been to take the computer with you! Unfortunately, this trend is spreading user's information across several computers. SimDesk™ is truly portable, meaning a user can access software and data from any of computer. And, because data is synchronized, users do not have to worry about which computer has the most recent copy of the data.

Speed

The SimDesk™ product suite was developed with speed in mind. Using proprietary technology, STI ensures that each application runs optimally on any supported platform. Consequently, a Windows user gets a version of SimDesk™ optimized for the Windows platform whereas a PalmPilot user gets a version optimized for the PalmPilot.